

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Klaus-Helmut Müller et. al.
Serial No: Reissue application of U.S. Patent 6,251,831, issued 26 June 2001
For: Herbicidal sulphonylamino(thio)carbonyl compounds
Art Unit: 1625
Examiner: Patricia Morris

25 June 2003

Mail Stop **REISSUE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

COMBINED REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY

SIR:

As a below named inventor, I hereby declare that:

My residence, mailing address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 6,251,831, granted 26 June 2001, and for which a reissue patent is sought on the invention entitled:

HERBICIDAL SULPHONYLAMINO(THIO)CARBONYL COMPOUNDS

the specification of which

 x is attached hereto.

 was filed on _____ as reissue application number _____ and was amended on _____.

(if applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56. I verily believe the original patent to be wholly or partially inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

- ☐ by reason of a defective specification or drawing.
- ☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.
- ☐ by reason of other errors.

At least one error upon which reissue is based is described below. If the reissue is a broadening reissue, such must be stated with an explanation as to the nature of the broadening:

This reissue application is a broadening reissue which seeks to introduce the phrase "or a salt of the compound of formula (I)," (hereafter referred to as the "amended salt phrase") into claim 1 of U.S. Patent 6,251,831, which was inadvertently deleted from the claim language during prosecution.

The preliminary amendment of 30 December 1998 cancelled claims 1-3 and 5-10 and introduced new claim 11 which became the new independent claim; claims 1 and 11 both contained the phrase "and salts of compounds of the formula (I)" (hereafter referred to as the "original salt phrase" - The amended salt phrase has been added to promote singular-singular term agreement). The original salt phrase was maintained through the applicants' response to restriction requirement (5 May 1999) and response to the first office action (5 August 1999).

A continuing prosecution application was filed on 24 February 2000 which included a preliminary amendment which cancelled claim 11 in favor of new independent claim 17. This claim 17 inadvertently omitted the original salt phrase which had been present in claim 11. As no objection or rejection had been made by the examiner that the scope of the claimed compounds also included salt forms of the claimed compounds, this omission was made in error.

The original and amended salt phrases are supported throughout the specification (see e.g. col. 1, line 57 of U.S. Patent 6,251,831) and the original salt phrase was part of the originally filed claim 1 (see page 264, line 18) and as such does not constitute new matter. Moreover, the omission of the original/amended salt phrase resulted in the patentee claiming "less than he had a right to claim" and because the specification and originally filed claims support the "salt" phrase, the claims of '831 are partly inoperative in failing to protect against infringement all embodiments of the patentee's invention and as

such reissue is available to broaden the scope of the claims, see *Chisum on Patents*, page 15-33, Chapter 15.03[1] - see also *Ex parte Heathcock*, 134 USPQ 446 (POBA 1962) and *In re Salem*, 553 F.2d 676, 193 USPQ 513 (CCPA 1977).

The inventor(s) also hereby state that all errors corrected in this reissue application arose without any deceptive intention on the part of the applicant(s).

As a named inventor, I hereby appoint the following attorney(s) and/or agents to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith:

Kurt G. Briscoe, Reg. No. 33,141; **Lorimer P. Brooks**, Reg. No. 15,155; **William C. Gerstenzang**, Reg. No. 27,552; **Theodore Gottlieb**, Reg. No. 42,597; **Christa Hildebrand**, Reg. No. 34,953; **David D. Kim**, Reg. No. 53,103; **Howard C. Lee**, Reg. No. 48,104; **Bruce S. Londa**, Reg. No. 33,531; and **Andrew N. Parfomak**, Reg. No. 32,431

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(Combined Reissue Application Declaration and Power Of Attorney)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

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AUGUST 10, 1998

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UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 05/14/1998

REEL/FRAME: 9213/0736
NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

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SERIAL NUMBER: 09006686
PATENT NUMBER:

FILING DATE: 01/08/1998
ISSUE DATE:

DOROTHY RILEY, PARALEGAL
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OFFICE OF PUBLIC RECORDS

Assignment

For valuable consideration, the receipt and adequacy of which is hereby acknowledged,

I/We

- 1) Klaus-Helmut Müller 2) Rolf Kirsten 3) Ernst Rudolf F. Gesing
- 4) Joachim Kluth 5) Mark Wilhelm Drewes 6) Kurt Findeisen
- 7) Johannes Rudolf Jansen 8) Klaus König 9) Hans-Jochem Riebel
- 10) Otto Schallner 11) Markus Dollinger 12) Hans-Joachim Santel

- 1)-7)+9)-12) c/o Bayer AG, D 51368 Leverkusen, Germany
- 8) Zum Hahnenberg 40, D 51519 Odenthal, Germany

hereby sell, assign, and transfer unto Bayer Aktiengesellschaft a corporation of Germany, located at D 51368 Leverkusen, Germany the entire right, title, and interest in and to my/our application for Letters Patent of the United States, entitled

HERBICIDAL SULPHONYLAMINO(THIO)CARBONYL COMPOUNDS

USSN 09/006,686 filed January 13, 1998

and my/our entire right, title, and interest in and to all my/our inventions, whether joint or sole, disclosed in said application for Letters Patent, and in and to all divisional or continuation applications that may be filed for United States Letters Patent for any of said inventions, and in and to all patents that may be granted on the foregoing applications, and I/we hereby agree, whenever requested, to communicate to said assignee, its successors and assigns, any facts known to my/us respecting said inventions and to execute all applications or papers necessary to obtain and maintain proper patent protection on said inventions in the United States.

Date/Datum

26th of February 1998

02.03.98

27.2.98

26th February 1998

26.02.98

20.3.98

3.3.98

24.3.98

2.3.98

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